

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION  
CASE NO. 1:08cv00353 (WOB)

ARTHUR JONES

PLAINTIFF

VS.

ORDER

OPTION ONE MORTGAGE CORP.,  
ET AL.

DEFENDANTS

This matter is before the court on the defendants' motion to dismiss (Doc. #31), defendants' motion for summary judgment (Doc. # 57), and plaintiff's motion to add party plaintiff (Doc. #65).

The court heard oral argument on these motions on Thursday, January 14, 2010. Mark Bamberger represented the plaintiff, and Diane Goderre and Erin Alkire represented the defendants. Also present was the plaintiff, Arthur Jones. Official court reporter Luke Lavin recorded the proceedings.

Although discovery in this matter is now closed, plaintiff represented during this hearing that he believes he has and/or can produce additional evidence to support his Fair Credit Reporting Act claim (the sole federal claim herein) or, in the alternative, make allegations that invoke the court's diversity jurisdiction over his state law claims. Out of an abundance of caution, the court will give plaintiff time to collect such evidence and amend his complaint.

However, subject to the provisions of Rule 11, should plaintiff find that he is unable to produce evidence to support such allegations, the court expects plaintiff to voluntarily dismiss this federal action.

Finally, should amendment of plaintiff's complaint trigger the need to conduct further discovery, defendants may move for leave to do so.

Therefore, having reviewed this matter, and the court being otherwise sufficiently advised,

**IT IS ORDERED** that:

(1) Defendants' motion to dismiss (Doc. #31) be, and is hereby, **DENIED AS MOOT**;

(2) Defendants' motion for summary judgment (Doc. # 57) be, and is hereby, **DENIED WITHOUT PREJUDICE WITH LEAVE TO REFILE**;

(3) Plaintiff's motion to add party plaintiff (Doc. #65) be, and is hereby, **GRANTED**. The clerk of Court shall add **Thomas Noland, Esq.** as a party-plaintiff herein, Mr. Noland being the court-appointed trustee for plaintiff Jones's bankruptcy matter;

(4) Plaintiff shall file an amended complaint **within thirty (30) days of entry of this order**, in accordance with the above discussion. Failing such amendment, plaintiff shall voluntarily dismiss this action; and

(5) **Within thirty (30) days** of the filing of plaintiff's amended complaint, defendants shall either request additional discovery or renew their motion for summary judgment.

This 19<sup>th</sup> day of January, 2010.



**Signed By:**

**William O. Bertelsman** *WOB*

**United States District Judge**